



Office of the Deputy Attorney General
Washington, D.C. 20530

June 11, 2019

Honorable Cyrus R. Vance, Jr.
District Attorney
New York County
1 Hogan Place
New York, NY 10013

Dear District Attorney Vance:

The Bureau of Prisons (“BOP”) has informed me that on May 17, 2019, attorneys for federal inmate Paul J. Manafort, Jr., wrote to BOP, copying prosecutors from your office. The letter is attached here for your reference. In the May 17 letter, expressing concern for his health and safety, Mr. Manafort’s attorneys opposed your office’s request that the State of New York temporarily take custody of him from BOP in connection with a New York County criminal matter that your office is prosecuting. They proposed that Mr. Manafort remain in federal custody but be made available to New York when needed for the prosecution of the state criminal matter.

Before rendering a decision on this matter, the Department would like to know if your office has a response to the May 17 letter or would otherwise like to comment. In order to resolve this question in a timely way, we would appreciate any response by June 18, 2019.

Sincerely,

Jeffrey A. Rosen
Deputy Attorney General

Enclosure

cc: Todd Blanche, Esq.
Cadwalader, Wickersham & Taft LLP
Counsel to Mr. Manafort

C A D W A L A D E R

Cadwalader, Wickersham & Taft LLP
200 Liberty Street, New York, NY 10281
Tel +1 212 504 6000 Fax +1 212 504 6666
www.cadwalader.com

May 17, 2019

VIA E-MAIL AND REGISTERED MAIL

Vicky Moser, Warden
FCI Loretto
P.O. Box 1000
Cresson, PA 16630

Re: Paul J. Manafort, Jr., Inmate No. 35207-016

Dear Warden Moser:

I write on behalf of my client, Paul J. Manafort, Jr., who is an inmate at FCI Loretto (Inmate No. 35207-016) serving a sentence of seven and a half years' imprisonment.

In connection with New York County Indictment 774/2019 against Mr. Manafort (the "Case"), the New York County District Attorney's Office (the "DA's Office") has made a Request for Temporary Custody of Mr. Manafort, dated May 3, 2019 (the "Request"), seeking custody of Mr. Manafort pursuant to Article IV(a) of the Interstate Agreement on Detainers ("IAD"), 18 U.S.C. App. 2, and proposing not to return him to federal custody until "after trial is completed" in New York.

Prior to the Request being submitted to you, I engaged with the DA's Office on behalf of Mr. Manafort in an effort to reach agreement regarding the terms of Mr. Manafort's temporary transfer to New York State custody to be arraigned in the Case. In particular, I proposed that the DA's Office secure Mr. Manafort's attendance in New York for the limited period of time necessary to appear and be arraigned, and that the DA's Office thereafter remit him to his designated federal facility—FCI Loretto—pending trial in the Case. As discussed in greater detail in my April 23, 2019 letter to the DA's Office on this subject, which I have enclosed herewith, we believe that allowing Mr. Manafort to remain at FCI Loretto pending trial in New York serves the interests of all interested parties, as well as the fair and efficient administration of justice, and can be accomplished without any risk of implicating Mr. Manafort's "anti-shuttling" rights under the IAD, which rights Mr. Manafort would be willing to waive in order to be returned to his designated federal facility following his arraignment. Unfortunately, and without explanation, the DA's Office informed us that it would not agree to this reasonable accommodation, instead issuing its Request seeking Mr. Manafort's presence in New York for the duration of the time between his arraignment and the end of his trial. Notwithstanding the District Attorney's decision, "[u]nder the provisions of Article IV(a) the Warden has up to 30 days to approve or disapprove the state's

C A D W A L A D E R

May 17, 2019

request for temporary custody,” during which time “the inmate may petition the Warden to disapprove the state’s request for temporary custody.”¹

We believe that there are several important considerations that warrant accommodating Mr. Manafort by allowing him to be temporarily transported to New York for his arraignment, but only on the condition that he be returned to his designated facility while he awaits trial. We request that you require the DA’s Office to re-issue the Request so that Mr. Manafort will be returned to FCI Loretto after his arraignment, and thereafter released into the custody of New York no earlier than one week before trial begins in the Case.

There are several reasons for this request. First, FCI Loretto is an appropriate facility in light of Mr. Manafort’s security needs, while Rikers Island—the New York facility where Mr. Manafort would most likely be housed—clearly is not. Mr. Manafort spent most of the past year in solitary confinement in Alexandria, Virginia in pre-trial detention. He was placed in solitary confinement because of the unusual notoriety of his case, not because Mr. Manafort posed any security risk to other inmates. For the same reasons, if he is forced to remain in New York pending trial in the Case, it is highly likely he will have to spend months or years before trial in solitary confinement. *See* NYDOC Directive 6007R-A (Protective Custody). Mr. Manafort is seventy years old, and in the past year endured two federal trials and two federal sentencing proceedings, in addition to the unusually high level of publicity surrounding his federal cases. Moreover, in light of the combined sentence of seven and a half years’ imprisonment imposed on Mr. Manafort in his federal cases, FCI Loretto is likely to be his home for the foreseeable future. Relocating him from this environment while he awaits trial in the Case would not further rehabilitation or any other purpose of his custodial sentence, nor would it advance the purpose of the IAD to address “uncertainties which obstruct programs of prisoner treatment and rehabilitation.” IAD Art. I.

Relatedly, we note that Mr. Manafort, who has been in custody for approximately one year, has suffered health challenges, and while his treatment is being managed, those challenges would best be addressed at his designated federal facility. These considerations are particularly weighty here in light of the fact that, as New York itself has acknowledged, the Rikers Island facility where

¹ U.S. Dep’t of Justice, Federal Bureau of Prisons, *Correctional Systems Manual* (P5800.15, updated 9/23/16), Ch. 6, P. 9. *See* IAD Art. IV(a) (“there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the Governor of the sending State may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner”); 18 U.S.C. App. 2 § 3 (“The term ‘Governor’ as used in the agreement on detainers shall mean with respect to the United States, the Attorney General”); *see also* 28 C.F.R. § 0.96(m) (delegation of authority to Director of Bureau of Prisons); *id.* § 0.97 (authorizing Director of Bureau of Prisons to re-delegate authority).

C A D W A L A D E R

May 17, 2019

Mr. Manafort would most likely be housed in New York remains burdened by “conditions that are unsecure, unsanitary and dangerous” and indeed “violating essential constitutional protections and State laws,” prompting New York officials to plan for the facility’s permanent closure.² Even if Mr. Manafort were housed at a facility other than Rikers Island, it would not serve anyone’s interests for him to be kept in a pre-trial detention facility in the New York City area while awaiting trial in the Case.

Second, Mr. Manafort’s request to return to FCI Loretto and remain there pending trial is supported by his strong interest in maintaining reasonable access to counsel in several criminal and civil matters, as well as his interest in visiting with family members, both of which would be impeded by his relocation to New York until the conclusion of trial in the Case. In particular, Mr. Manafort was recently a defendant in criminal proceedings before both the U.S. District Court for the District of Columbia, *United States v. Manafort*, 1:17-cr-00201-ABJ, and the U.S. District Court for the Eastern District of Virginia, *United States v. Manafort*, 1:18-cr-00083-TSE. While he has been sentenced in both federal cases, he is an interested party in forfeiture proceedings related to his federal criminal cases, also pending in the U.S. District Court for the District of Columbia, *In re: Petitions for Relief Concerning Consent Order of Forfeiture*, 1:18-mc-00167-ABJ, and continues to consult regularly with his Washington, DC-based counsel in those matters. Mr. Manafort also has an on-going civil case in Alexandria, Virginia, involving one of his properties, and must regularly consult with counsel regarding that matter. The same geographical considerations also apply to Mr. Manafort’s family members, who can more readily visit him at FCI Loretto than in New York, given where they live.

Both FCI Loretto and the New York courts are equipped with appropriate video-conferencing capabilities, and under New York’s procedural rules Mr. Manafort would be eligible to appear as necessary at court conferences or hearings between his arraignment and trial via this method. Thus, there is neither any need for Mr. Manafort to remain in New York pending trial, nor any need for him to repeatedly return to New York between his arraignment and trial, a period that will likely include considerable motion practice and other proceedings that will not require his physical attendance. While we do not know yet the trial schedule for the Case, discovery and motion practice, as well as usual delays that exist in the New York City court system, will very likely result in a trial not beginning for a year or longer.

² New York State Commission of Correction, *The Worst Offenders, Report: The Most Problematic Local Correctional Facilities of New York State* at 3 (February 2018) (noting “the need for closure of all jail facilities located on Rikers Island”).

C A D W A L A D E R

May 17, 2019

Finally, Mr. Manafort is being prosecuted in New York for exactly the same conduct for which he has already been tried and sentenced in the Eastern District of Virginia. Although this appears to be a blatant violation of New York's long-standing and highly protective statutory "Double Jeopardy" laws³—which expressly prohibit the District Attorney from re-trying Mr. Manafort for New York State offenses premised on the same alleged "act or criminal transaction" addressed in the prior federal case against him—the DA's Office has chosen to move forward with this prosecution, and is now attempting to add insult to injury by insisting that Mr. Manafort remain on Rikers Island, likely in solitary confinement, pending trial, despite the absence of any legitimate need for him to do so. This is politics at its worst, and while we expect that Mr. Manafort's rights ultimately will be vindicated in the Case, he should not be further punished in the interim through pre-trial detention on Rikers Island. Indeed, it is worth noting that if it were not for the federal sentence that Mr. Manafort is serving, he would almost certainly be granted bail for the charges he faces in New York.

In short, remaining at FCI Loretto will allow Mr. Manafort to be in general population where he can more effectively prepare for trial in the Case, as opposed to solitary confinement, receive appropriate medical treatment, meet regularly with counsel in the Case and other matters, and still achieve the District Attorney's objectives of progressing the Case towards trial and securing Mr. Manafort's appearance at trial when the time comes.

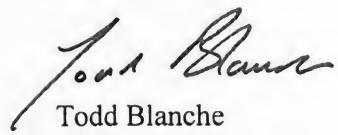
³ N.Y. Criminal Procedure Law § 40.20(2); *see People v. Abbamonte*, 43 N.Y.2d 74, 81–82 (1977) ("Under CPL 40.20, not only is the 'dual sovereignties' doctrine ignored, but double jeopardy protection is extended, generally, to offenses arising out of a common event.").

C A D W A L A D E R

May 17, 2019

I am available to discuss these matters at your earliest convenience. If you are inclined to grant the Request from the DA's Office as written, I respectfully request that I be given the opportunity to appeal your decision to others at the Bureau of Prisons and the Department of Justice.

Sincerely,



Todd Blanche

Enclosure

cc: Peirce R. Moser
Sean C. Pippen
James H. Graham
Lisa M. White
Assistant District Attorneys